

# Virtual discoveries 101: Eight tips for the COVID-19 age

July 30, 2020

Prior to COVID-19, examinations for discovery typically took place in a small boardroom with various lawyers, a witness and a transcriptionist in close quarters. With the ongoing need for physical distancing, it is no surprise that the discoveries model has changed.

We are in an age where virtual discoveries are the new normal, and with that comes new considerations. It seems physical distancing and remote meetings are here to stay for the near future.

With the benefit of four months of virtual discovery experience, we offer the following tips to make your virtual discovery as smooth as possible.

## 1. Test your system before the discovery day

At this stage, most of us have used Zoom or a similar platform. If you had any issues on those video calls - from your internet cutting out, to your voice being too soft or the room being too dark - address those issues before your discovery. If you will have to look at documents during the discovery, practice this beforehand (whether on the same screen, a second screen or on a hard copy in front of you).

## 2. Have a backup plan if your internet fails

Murphy's Law says that when you are unprepared for something bad to happen, it will happen. So be ready for your internet to fail. Your backup plan could be turning your phone into a hotspot, pre-arranging internet access with a friendly neighbour or, if you have concerns about the reliability of your connection, conduct the discovery at your office.

## 3. Get rid of distractions

Whether it be your phone, children, spouse or pet, ensure the room you conduct the discovery in is distraction-free, so you can devote all your attention to the questions you

are being asked and your answers. If your computer has pop-up notifications, disable those beforehand.

## **4. Do not speak over others**

While this is important in normal discoveries, it is even more important on virtual discoveries. When two people speak over each other on a virtual call, it makes it impossible to hear what anyone is saying. Take your discovery slow and make sure the lawyer questioning you has finished their question before you answer.

## **5. Keep an eye on your lawyer 's video feed**

At an in-person discovery, if your lawyer believes you are being asked an improper question, they'll often put their hand out to signal to you not to answer. This can be more difficult on a virtual discovery, where there may be time lags and you have several video feeds in front of you. Make sure your video feeds are on "grid" format so you can see your lawyer at all times. If you see your lawyer raise their hand or look like they are about to speak, pause for a moment.

## **6. On breaks, turn off your video and mute your sound**

We've all seen videos online of people saying or doing something on a video call they did not intend others to see or hear. If the discovery is on break, make sure you've turned sound and video off.

## **7. Speak up if someone gets cut off or freezes**

Others in the discovery may not know that their feed cut out, that they are frozen on your screen or that you only heard part of the question. If you see any hint of a connection issue, let everyone else know. If you missed any part of the question, do not assume what counsel meant to ask - ask them to repeat the question.

## **8. Use headphones with a microphone**

Your voice will come through much clearer through a microphone on your headphones than it will speaking a foot or two away from the microphone on your computer. This will also help you hear everyone more clearly.

Ultimately, the discovery procedure and substance has not changed. Many witnesses actually find it more comfortable than in-person discoveries, as you often have the benefit of doing it from a familiar environment.

If your first virtual discovery is coming up, the tips above will help ensure you are prepared. If you have any questions or concerns, check in with your lawyer beforehand.

By

[John McIntyre](#)

Expertise

[Health Care](#), [Disputes](#)

---

## **BLG | Canada's Law Firm**

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 725 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

[blg.com](http://blg.com)

### **BLG Offices**

#### **Calgary**

Centennial Place, East Tower  
520 3rd Avenue S.W.  
Calgary, AB, Canada  
T2P 0R3

T 403.232.9500  
F 403.266.1395

#### **Ottawa**

World Exchange Plaza  
100 Queen Street  
Ottawa, ON, Canada  
K1P 1J9

T 613.237.5160  
F 613.230.8842

#### **Vancouver**

1200 Waterfront Centre  
200 Burrard Street  
Vancouver, BC, Canada  
V7X 1T2

T 604.687.5744  
F 604.687.1415

#### **Montréal**

1000 De La Gauchetière Street West  
Suite 900  
Montréal, QC, Canada  
H3B 5H4

T 514.954.2555  
F 514.879.9015

#### **Toronto**

Bay Adelaide Centre, East Tower  
22 Adelaide Street West  
Toronto, ON, Canada  
M5H 4E3

T 416.367.6000  
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing [unsubscribe@blg.com](mailto:unsubscribe@blg.com) or manage your subscription preferences at [blg.com/MyPreferences](http://blg.com/MyPreferences). If you feel you have received this message in error please contact [communications@blg.com](mailto:communications@blg.com). BLG's privacy policy for publications may be found at [blg.com/en/privacy](http://blg.com/en/privacy).

© 2024 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.